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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,522	02/05/2001	Maria Altamura	205 010	4796

Abelman Frayne & Schwab  
150 East 42nd Street  
New York, NY 10017-5612

7590 10/29/2003

EXAMINER	
COLEMAN, BRENDA LIBBY	
ART UNIT	PAPER NUMBER
1624	15

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

### ***Advisory Action***

Application No.  
**09/762,522**

Examiner

**Brenda Coleman**

TAMURA et al.

- The MAILING DATE of this communication appears on the cover sheet with the co  
 FILED Sep 29, 2003

THE REPLY FILED Sep 29, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITIONAL STATUS. THEREFORE, FURTHER ACTION BY THE APPLICANT IS REQUIRED TO AVOID THE ABANDONMENT OF THIS APPLICATION UNDER 37 CFR 1.113. MAY ONLY BE EITHER: (1) A TIMELY FILED AMENDMENT, OR (2) A TIMELY FILED MOTION TO REINSTATE. ADDRESS --

Therefore, further action by the applicant is required to avoid the abandonment of this application. The applicant must file one of the following: (1) a timely filed amendment which places the application in compliance with 37 CFR 1.113; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.

- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION.** See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply after mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:

2. ☒ The proposed amendment(s) will not be entered because:

- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not relevant.

- (b) ☒ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without

- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: see attached Advisory Action.

NOTE: see attached Advisroy Action.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_  
a separate, timely filed amendment canceling the non-allowable claim(s). \_\_\_\_\_ would be allowable if submitted in
5. ☐ The a) ☐ affidavit b) ☐ \_\_\_\_\_

5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:

The status of the claim(s) is (or will be) as follows:

**Claim(s) allowed:**

Claim(s) objected to:

**Claim(s) rejected:**

Claim(s) withdrawn from consideration:

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO 1449) P

10. ☐ Other:

**BRENDA COLEMAN  
PRIMARY EXAMINER  
ART UNIT 1624**

### Advisory Action

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### ADVISORY ACTION

Claims 21-33 are pending in the application.

The period for reply continues to run SIX MONTHS from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. A reply within the meaning of 37 CFR 1.113 or a request for a continued examination (RCE) in compliance with 37 CFR 1.114 must be timely filed to avoid abandonment of this application.

The amendment filed September 29, 2003 under 37 CFR 1.116 in response to the final rejection has been considered but is not deemed to place the application in condition for allowance and will **not** be entered because: the new matter presented in the claims of the response filed September 29, 2003 is such that the definition of  $R_{12}$  (in claim 21) includes the moiety piperazine optionally substituted on the N-atom by 4-aminosulfonyl and the moiety where  $R_{12}$  is  $C_{1-3}$  alkyl.

Additionally, the following amendments to the specification and claims raises new issues:

- a) The proposed amendment to the specification at page 4, line 12, fails to give directions to the amendment and appears to be incomplete.
- b) The proposed amendment to the definition of  $R_{12}$  appears as such:

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and R<sub>12</sub> is chosen among: morpholine, pyrrolidine optionally substituted with an hydroxy or hydroxymethyl, piperidine optionally substituted with a 4-hydroxy or 4-carboxyamido group [no comma separating] piperazine optionally substituted on the N-atom by 4-aminosulfonyl [new matter], C<sub>1-3</sub> alkyl [new matter], triazole, tetrazole, 5-mercapto-tetrazole, furan, thiophene, thiomorpholine, optionally mon- or di-oxygenated on the S-atom, and cyclohexan-1-yl- [new matter] optionally substituted by a hydroxy group.

- c) Two of the species in claim 27 lack antecedent basis, i.e. (4-methylphenyl)sulfonylamino in species xxii and xxiii.
- d) Species xxvii in claim 27 contains a typo, i.e. cianomethylamino.

**Applicants are reminded that all rejections of the Office Action mailed on April 29, 2003 are herein maintained.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Coleman whose telephone number is (703) 305-1880. The examiner can normally be reached on Mondays and Tuesdays from 9:00 AM to 3:00 PM and from 5:30 PM to 7:30 PM and on Wednesday thru Friday from 9:00 AM to 6:00 PM.

The fax phone number for this Group is (703) 308-4734 for "unofficial" purposes and the actual number for **OFFICIAL** business is **308-4556**.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

*Brenda Coleman*

Brenda Coleman  
Primary Examiner AU 1624  
October 27, 2003